

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

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REGULATORY AUTH.

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IN RE: Proceeding for the Purpose of)
Addressing Competitive Affects of Contract) Docket No. 98-00559
Service Arrangements Filed by BellSouth)
Telecommunications, Inc. In Tennessee)

OFFICE OF THE
EXECUTIVE SECRETARY

MOTION TO PUBLICIZE DOCUMENTS AND TESTIMONY

Comes now the Consumer Advocate Division of the Attorney General for the State of Tennessee ("CAD") and files this Motion to Publicize Documents and testimony. CAD respectfully requests that the Authority find that BellSouth Telecommunications, Inc. ("BellSouth") is not entitled to any proprietary protection in its contracts with State agencies, in its employee e-mail messages, and in its external e-mail messages to others.

For cause, the Consumer Advocate would show:

1. That BellSouth and various colleges and universities, which are instrumentalities of the State of Tennessee, entered into Contract Service Agreements ("CSAs"), and that one or more pages of said CSAs are stamped "confidential" or "proprietary."
2. That the various colleges and universities in question are public colleges and universities, which are wholly owned and operated by the State of Tennessee.
3. That T. C. A. §10-7-503, entitled Records Open to Public Inspection - Exceptions, provides in pertinent part:
 - (a) All state, county and municipal records . . . except any public documents authorized to be destroyed . . . shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.

4. That Tennessee law holds "it is beyond dispute that there exists in this country a general right to inspect and copy public records." Ballard v. Herzke, 924 S.W.2d 652, 661 (Tenn. 1986).
5. That although a document may in some cases be protected from public disclosure, such protection is insufficient to overcome the requirement set forth in T. C. A. §10-7-503, and that all government documents must be publicly disclosed unless otherwise provided by State law. Id. at 662.
6. That the CAD independently secured copies of the above-mentioned CSAs and spoke with the General Counsel of the Board of Regents who agreed that the CSAs are public records and should be made available to all members of the public.
7. That an illegal contract provision, such as BellSouth's confidentiality stamp, is void as a matter of law.
8. That BellSouth knows or should have known that the state employee who signed the CSAs does not have the authority to waive T. C. A. §10-7-503.
9. That the Protective Agreement or Order in this case is over broad and further that there are no good faith or reasonable or lawful ground for continuing the secrecy of the State CSAs.
10. That all contracts with the various colleges and universities of the State of Tennessee are subject to the Public Records Act and are open to the public for inspection and copying.
11. That, BellSouth, in discovery produced documents 00001 through 002551 and that said documents have been "redacted" by BellSouth to exclude proprietary information but yet said pages may still include the word "confidential" or "proprietary."
12. That said documents 00001 through 002551 are unnecessarily marked as "confidential" or proprietary by BellSouth in contravention of the protective order and should not be protected

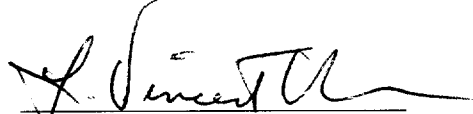
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from disclosure since they have already been redacted.

13. That the Consumer Advocate Division has obtained certain contracts and supporting data in discovery or by statute and that said information and exhibits is used by CAD witnesses, Stephen N. Brown and Terry Buckner in essential testimony, but that customer names have been redacted or never used.
14. That BellSouth witness, Randall Frame testified that BellSouth has entered into an otherwise undisclosed agreement with the Tennessee Regulatory Authority staff to make all terms and conditions of its future contract filings public, but that upon CAD's inquiry to BellSouth, the CAD was informed that the company has not agreed to make all terms and conditions of its prior contract filings public.
15. That continuing the secrecy and failing to publicize the terms and conditions of past contract filings, but publicizing the terms and conditions of future contract filings is arbitrary and capricious, and further that the terms and conditions of past contract filings are not good faith protections under the Protective Agreement or Protective Order.
16. That the public interest in disclosure of the terms and conditions of past contract filings outweighs BellSouth's interest in keeping the documents secret and further that disclosure of the terms and conditions of past contract filings serves the public policy which seeks equality of rates, permits competition, and protects the consumer without unreasonable harm to BellSouth.
17. That CAD respectfully moves that all testimony of Stephen N. Brown and Terry Buckner be publicized without exception.

Wherefore the Consumer Advocate Division prays that the Tennessee Regulatory Authority

find that each and every document that the Consumer Advocate Division seeks to publicize is not protected by the Protective Order or Agreement in this case and that protection was not claimed in good faith by BellSouth and further that the entirety of the testimony and exhibits of Stephen N. Brown and Terry Buckner be publicized and for other relief as is just.


L. Vincent Williams

Certificate of Service

Comes the Consumer Advocate Division to respectfully certify that this document was served on the parties listed below by U.S. Mail or Hand-delivered on this 30th day of July 1999.

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